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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,749	06/06/2005	Terry Wayne Lockridge	PU020489	5451
24498	7590	01/22/2009		
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PRINCETON, NJ 08543-5312				
EXAMINER				
MENDOZA, JUNIOR O				
ART UNIT		PAPER NUMBER		
2423				
MAIL DATE		DELIVERY MODE		
01/22/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/537,749

Applicant(s)

LOCKRIDGE ET AL.

Examiner

JUNIOR O. MENDOZA

Art Unit

2423

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1, 8 and 14 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 3 – 14 and 16 – 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoel et al. (Patent No 5,905,942) in view of Okura et al. (Patent No 6,487,722) further in view of Candelore (Patent No US 6,057,872). Hereinafter referenced as Stoel, Okura and Candelore, respectively.

Regarding **claim 1**, Stoel discloses a system for providing data in a multiple dwelling facility, the system comprising:

a headend unit that receives a data stream that comprises a plurality of programs (A headend [12] may provide RF signals including off-air local television channels, direct broadcast satellite programming, standard cable subscription programming, premium tier programming, such as HBO, Cinemax, etc, event pay-per-view programming,

interactive menus, video-on-demand programming, interactive video games and other interactive video or multimedia services, col. 2 lines 7-14 also exhibited on fig 1);

and a multiple dwelling unit network that is adapted to receive at least a portion of the data stream from the headend unit and provide at least a subset of the plurality of programs to individual users in the multiple dwelling facility (System [10] is installed in a multiple dwelling unit such as an apartment complex, where each subscriber unit [16] receives content from the headend [12], col. 1 lines 66-67 and col. 2 lines 1-6 also exhibited on fig 1);

a headend unit (Col. 2 lines 7-14 also exhibited on fig 1 headend 12) and a program provider (Col. 10 lines 49-61 fig 3).

However, it is noted that Stoel fails to explicitly disclose that the headend unit is adapted to offer at least one of the plurality of programs to individual users at a first price set by the program provider.

Nevertheless, in a similar field of endeavor Okura discloses that the headend unit is adapted to offer at least one of the plurality of programs to individual users at a first price set by the program provider (Programs on demand being offered to the customer are displayed on a electronic program guide, where the customer is presented with the choice to buy the same program at a regular price set by the program generation section 11, col. 10 lines 22-34 also exhibited on fig 6).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stoel by specifically providing the elements

mentioned above, as taught by Okura, for the purpose of allowing content providers to make profit from the content that they decide to distribute at a given time.

However, it is noted that Stoel and Okura fail to explicitly disclose a headend unit is adapted to offer at least one of the plurality of programs to individual users at a second price set by the headend unit.

Nevertheless, in a similar field of endeavor Candelore discloses a headend unit is adapted to offer at least one of the plurality of programs to individual users at a second price set by the headend unit (Col. 5 lines 42-44 and 56-67 also figure 4, the headend applies a digital coupon for users that buy products frequently allowing the user to obtain the products at a second price).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stoel and Okura by specifically providing the elements mentioned above, as taught by Candelore, for the purpose of attracting more customers, since there is always the type of customer that will more likely buy a product if it is at a discounted price.

Regarding **claim 3**, Stoel, Okura and Candelore disclose the system set forth in claim 1; moreover, Stoel discloses that the multiple dwelling unit network comprises a switch that distributes the at least a subset of the plurality of programs to users in individual dwelling units within the multiple dwelling facility (Content is supplied from headend [12] to each individual subscriber unit [16] through an interdiction field unit [28], which selectively jams or allows channels to the subscriber unit [16], in other words the

interdiction field unit [28] switches on/off the right for a customer to get some channels based on a control data command received from the head end [12], col. 53-67 also exhibited 1).

Regarding **claim 4**, Stoel, Okura and Candelore disclose the system set forth in claim 1; moreover, Stoel discloses that the multiple dwelling unit network comprises a set top box in each of the individual dwelling units within the multiple dwelling facility (Subscriber unit [16] as exhibited on fig 1),

each of the set top boxes being adapted to block a specific program or permit access to the specific program depending on whether a user has met at least one predetermined condition (Content is supplied from headend [12] to each individual subscriber unit [16] through an interdiction field unit [28], which selectively jams or allows channels to the subscriber unit [16], in other words the interdiction field unit [28] switches on/off the right for a customer to get some channels based on a control data command received from the head end [12], col. 53-67 also exhibited 1. Moreover, each subscriber terminal has a non-volatile stored address which is associated with the subscriber in the subscriber database, col. 4 lines 42-56; where a user needs to enter a PIN in order to have access to content, col. 5 lines 28-58)

Regarding **claim 5**, Stoel, Okura and Candelore disclose the system set forth in claim 1; moreover, Stoel discloses that at least one of the plurality of programs comprises a premium video channel (A headend [12] may provide RF signals including premium tier programming, such as HBO, Cinemax, etc, col. 2 lines 7-14 fig 1).

Regarding **claim 6**, Stoel, Okura and Candelore disclose the system set forth in claim 1; moreover, Stoel discloses that at least one of the plurality of programs comprises a pay per view video program (A headend [12] may provide RF signals including event pay-per-view programming, col. 2 lines 7-14 also exhibited on fig 1).

Regarding **claim 7**, Stoel, Okura and Candelore disclose the system set forth in claim 1; moreover, Stoel discloses the headend unit is configured to interface with a billing system that is configured to create a billing record for each of a plurality of users in the multiple dwelling facility (As a part of signing on with the cable system operator, the subscriber will provide billing information including name, address, and telephone number. That subscriber information is stored in a subscriber database. Subscriber terminal has a non-volatile stored address which is associated with the subscriber in the subscriber database, col. 4 lines 42-56; moreover, after confirmation of the PIN is completed, headend [12] creates a billing record for the purchase, col. 5 lines 59-64).

Regarding **claim 8**, Stoel discloses a method for providing access to data to individual users within a multiple dwelling facility, comprising the acts of:

receiving a data stream that comprises a plurality of programs (A headend [12] may provide RF signals including off-air local television channels, direct broadcast satellite programming, standard cable subscription programming, premium tier programming, such as HBO, Cinemax, etc, event pay-per-view programming, interactive menus, video-on-demand programming, interactive video games and other interactive video or multimedia services, col. 2 lines 7-14 also exhibited on fig 1);

distributing at least a portion of the data stream to a multiple dwelling unit network (Content is distributed to interdiction field units [28] as exhibited on fig 1);

and providing access to a specific one of the plurality of programs to each of a plurality of individual users within the multiple dwelling facility via the multiple dwelling unit network depending on whether each of the plurality of individual users has met at least one predetermined condition (System [10] is installed in a multiple dwelling unit such as an apartment complex, where each subscriber unit [16] receives content from the headend [12], col. 1 lines 66-67 and col. 2 lines 1-6 also exhibited on fig 1.

Moreover, each subscriber terminal has a non-volatile stored address which is associated with the subscriber in the subscriber database, col. 4 lines 42-56; where a user needs to enter a PIN in order to have access to content, col. 5 lines 28-58)

a headend unit (Col. 2 lines 7-14 also exhibited on fig 1 headend 12) and a program provider (Col. 10 lines 49-61 fig 3).

However, it is noted that Stoel fails to explicitly disclose that the headend unit is adapted to offer at least one of the plurality of programs to individual users at a first price set by the program provider.

Nevertheless, in a similar field of endeavor Okura discloses that the headend unit is adapted to offer at least one of the plurality of programs to individual users at a first price set by the program provider (Programs on demand being offered to the customer are displayed on a electronic program guide, where the customer is presented with the choice to buy the same program at a regular price set by the program generation section 11, col. 10 lines 22-34 also exhibited on fig 6).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stoel by specifically providing the elements mentioned above, as taught by Okura, for the purpose of allowing content providers to make profit from the content that they decide to distribute at a given time.

However, it is noted that Stoel and Okura fail to explicitly disclose a headend unit is adapted to offer at least one of the plurality of programs to individual users at a second price set by the headend unit.

Nevertheless, in a similar field of endeavor Candelore discloses a headend unit is adapted to offer at least one of the plurality of programs to individual users at a second price set by the headend unit (Col. 5 lines 42-44 and 56-67 also figure 4, the headend applies a digital coupon for users that buy products frequently allowing the user to obtain the products at a second price).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stoel and Okura by specifically providing the elements mentioned above, as taught by Candelore, for the purpose of attracting more customers, since there is always the type of customer that will more likely buy a product if it is at a discounted price.

Regarding **Claims 9, 10 and 12**, they are rejected for the same reasons stated in the rejection of claim 6, 5 and 4, respectively.

Regarding **claim 11**, Stoel, Okura and Candelore disclose the method set forth in claim 8, moreover, Stoel discloses that the at least one predetermined condition comprises selecting at least one of the plurality of programs for display using an on-screen programming guide (The subscriber selects content options by viewing interactive menus on the screen of the television [44] and navigates it by pressing the keys of control remote [46]. Col. 3 lines 46-57 also exhibited on fig 2).

Regarding **claim 14**, Stoel discloses a system for providing data in a multiple dwelling facility, the system comprising:

means for receiving a data stream that comprises a plurality of programs (A headend [12] may provide RF signals including off-air local television channels, direct broadcast satellite programming, standard cable subscription programming, premium

tier programming, such as HBO, Cinemax, etc, event pay-per-view programming, interactive menus, video-on-demand programming, interactive video games and other interactive video or multimedia services, col. 2 lines 7-14 also exhibited on fig 1);

means for receiving a data stream that comprises a plurality of programs (Col. 2 lines 7-14 also exhibited on fig 1),

and means for providing at least a subset of the plurality of programs to individual users in the multiple dwelling facility (System [10] is installed in a multiple dwelling unit such as an apartment complex, where each subscriber unit [16] receives content from the headend [12], col. 1 lines 66-67 and col. 2 lines 1-6 also exhibited on fig 1).

a headend unit (Col. 2 lines 7-14 also exhibited on fig 1 headend 12) and a program provider (Col. 10 lines 49-61 fig 3).

However, it is noted that Stael fails to explicitly disclose means for receiving the data stream being adapted to offer at least one of the plurality of programs to individual users at a first price set by a program provider.

Nevertheless, in a similar field of endeavor Okura discloses means for receiving the data stream being adapted to offer at least one of the plurality of programs to individual users at a first price set by a program provider (Programs on demand being offered to the customer are displayed on a electronic program guide, where the customer is presented with the choice to buy the same program at a regular price set by the program generation section 11, col. 10 lines 22-34 also exhibited on fig 6).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stael by specifically providing the elements

mentioned above, as taught by Okura, for the purpose of allowing content providers to make profit from the content that they decide to distribute at a given time.

However, it is noted that Stoel and Okura fail to explicitly disclose means for receiving the data stream being adapted to offer at least one of the plurality of programs to individual users at a second price set by the means for receiving the data stream.

Nevertheless, in a similar field of endeavor Candelore discloses means for receiving the data stream being adapted to offer at least one of the plurality of programs to individual users at a second price set by the means for receiving the data stream (Col. 5 lines 42-44 and 56-67 also figure 4, the headend applies a digital coupon for users that buy products frequently allowing the user to obtain the products at a second price).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stoel and Okura by specifically providing the elements mentioned above, as taught by Candelore, for the purpose of attracting more customers, since there is always the type of customer that will more likely buy a product if it is at a discounted price.

Regarding **Claims 16, 17, 18, 19, and 20**, they are rejected for the same reasons stated in the rejection of claim 3, 4, 5, 6, and 7, respectively.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUNIOR O. MENDOZA whose telephone number is (571)270-3573. The examiner can normally be reached on Monday - Friday 9am - 5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571)272-7296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Junior O Mendoza
Examiner
Art Unit 2423

/J. O. M./
January 12, 2009

/Hunter B. Lonsberry/

Primary Examiner, Art Unit 2421